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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte MARCELO OLIVEIRA and
SARAVANAKUMAR V. TIRUTHANI¹

Appeal 2011-005353
Application 10/957,172
Technology Center 2600

Before DONALD E. ADAMS, ERIC GRIMES, and
SHERIDAN K. SNEDDEN, *Administrative Patent Judges*.

GRIMES, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal under 35 U.S.C. § 134 involving claims to a teleconferencing system and method, which have been rejected for obviousness. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

¹ Appellants identify the Real Party in Interest as Siemens Communications, Inc. (Appeal Br. 2).

STATEMENT OF THE CASE

The Specification states that in teleconferencing systems,

[w]hile the conferencing server may announce the names of participants as they join, there is no way for participants to determine who else is in the conference. Consequently, each time a new participant “arrives,” the conference is interrupted . . . by the new arrival asking who else is already present.

(Spec. 1, ¶ 1005.)

The Specification discloses a system that includes a “participant list announcement service . . . configured to announce the names of active participants in a teleconference to a requesting participant” (*id.* at 2, ¶ 1008). “In certain embodiments, the participant list announcement service is configured to announce the names aurally. . . . In some embodiments, the participant list is sent as an Instant message to the participant who has requested to see the list of participants.” (*Id.*)

Claims 1, 3-16, and 18-25 are on appeal. Claim 1 is illustrative and reads as follows:

1. A telecommunications apparatus, comprising:
 - a teleconferencing service, teleconferences being established through said teleconferencing service with a plurality of communications devices, each communications device identified with a respective active teleconference participant;
 - a messaging service coupled to said teleconferencing service and providing text based communications to selected ones of said plurality of communications devices; and
 - a participant list announcement service operably coupled to the teleconferencing service and monitoring active teleconference participants, providing a list of the names of said active teleconference participants in a teleconference to a requesting participant, said list being provided through a selected one of said messaging service and directly through a respective communications device responsive to a participant request, wherein said

participant list is provided only to the requesting party while the requesting party is participating as an active participant in said teleconference.

The claims stand rejected under 35 U.S.C. § 103(a) as follows:

- Claims 1 and 9 based on Eaton² and Anvekar³ (Answer 4);
- Claims 3, 4, and 15 based on Eaton, Anvekar, and Adams⁴ (Answer 7);
- Claims 5 and 6 based on Eaton, Anvekar, Creamer,⁵ and Bushmitch⁶ (Answer 9);
- Claim 7 based on Eaton, Anvekar, Creamer, Bushmitch, and Waites⁷ (Answer 11);
- Claim 8 based on Eaton, Anvekar, Creamer, Bushmitch, and Adams (Answer 11);
- Claim 10 based on Eaton, Anvekar, and Salama⁸ (Answer 12);
- Claim 11 based on Eaton, Anvekar, Salama, and Connor⁹ (Answer 13);
- Claim 12 based on Eaton, Anvekar, and Creamer (Answer 14);
- Claim 13 based on Eaton, Anvekar, Creamer, and Waites (Answer 15);
- Claim 14 based on Eaton, Anvekar, and Bushmitch (Answer 16);

² Eaton et al., 5,483,588, issued Jan. 9, 1996.

³ Anvekar et al., 2003/0054844 A1, issued Mar. 20, 2003.

⁴ Adams, 2003/0140121 A1, issued July 24, 2003.

⁵ Creamer et al., 2003/0016805 A1, issued Jan. 23, 2003.

⁶ Bushmitch et al., 2005/0206721 A1, issued Sept. 22, 2005.

⁷ Waites, 6,788,769 B1, issued Sept. 7, 2004.

⁸ Salama et al., 6,584,093 B1, issued June 24, 2003.

⁹ Connor et al., 6,011,851, issued Jan. 4, 2000.

- Claim 25 based on Eaton, Anvekar, and Connor (Answer 17);
- Claims 16, 18, and 20 based on Eaton, Anvekar, and Adams (Answer 18);
- Claim 19 based on Eaton, Anvekar, Adams, Creamer, and Bushmitch (Answer 20);
- Claims 21-23 based on Eaton, Anvekar, Adams, and Benco¹⁰ (Answer 22); and
- Claim 24 based on Eaton, Anvekar, Adams, and Connor (Answer 23).

DISCUSSION

The Examiner has rejected claims 1 and 9 as obvious based on Eaton and Anvekar (Answer 4). The Examiner finds that Eaton discloses an apparatus meeting the limitations of claim 1 except that Eaton does not disclose the messaging service recited in the claim (*id.* at 4-5). The Examiner finds that Anvekar discloses a “messaging service coupled to the teleconferencing service and providing text based communication to selected ones of said plurality of communication devices” (*id.* at 5) and concludes that it would have been obvious to modify Eaton’s apparatus to include Anvekar’s messaging service in order to allow “establish[ing] a teleconference via a short message service,” as disclosed by Anvekar (*id.*).

Appellants contend that it would not have been obvious to combine the teachings of Eaton and Anvekar because doing so would require changing the principle of operation of Eaton and make Eaton’s invention

¹⁰ Benco et al., 6,940,960 B2, issued Sept. 6, 2005.

unsuitable for its intended purpose (Appeal Br. 8-11). Appellants also argue that the references do not teach a “system providing ‘a list of the names of said active teleconference participants in a teleconference to a requesting participant ... [both] through a selected one of said messaging service **and** directly through a respective communications device responsive to a participant request,’ as the claims recite” (*id.* at 11-12, footnote omitted, material in brackets in original).

The issue presented is: Does the evidence support the Examiner’s conclusions (a) that it would have been obvious to add the messaging service disclosed by Anvekar to Eaton’s teleconferencing system, and (b) that doing so would result in an apparatus meeting the limitations of claim 1?

Findings of Fact

1. Eaton discloses a “teleconferencing system which eliminates the need for a human operator to perform teleconferencing tasks and provides advanced teleconferencing features” (Eaton, col. 3, ll. 12-15).

2. Eaton discloses that

[a] number of features are available to a participant during the teleconference simply through the use of DTMF tones. The information is audibly provided . . . to only the requesting participant without disturbing the remaining participants. For example, during the conference, any of the attendees may initiate a roll call, whereby the system announces the names/identities of all the current attendees of the conference.

(*Id.* at col. 3, ll. 36-44.)

3. DTMF tones are touch-tone inputs (*id.* at col. 8, ll. 29-30).

4. Eaton discloses that one of the “options . . . which can be invoked by pressing the corresponding key(s) of the telephone” is to schedule a conference (*id.* at col. 9, ll. 22-28).

5. Eaton discloses that “[w]hen the caller is in the schedule submenu” (*id.* at col. 9, ll. 62-63), the system prompts the caller as to when the conference call is to be held (*id.* at col. 10, ll. 17-19), its length, and the number of parties (*id.* at col. 10, ll. 21-23).

6. Eaton discloses that the system checks a database to determine whether sufficient resources are available for the teleconference (*id.* at col. 10, ll. 36-38) and, if they are, announces that fact to the caller (*id.* at col. 10, ll. 44-46) and sets up the teleconference (*id.* at col. 10, l. 51).

7. Anvekar discloses a “system whereby a short message service exchange effects value-added functionality, including teleconferencing, based on the contents of a short message” (Anvekar 1, ¶ 3).

8. “A Short Message Service (SMS) enables a mobile subscriber in a mobile wireless network to send and receive short alphanumeric messages through his/her mobile station. The mobile station in the modern wireless networks can be a cellular phone.” (*Id.* at 1, ¶ 5.)

9. Anvekar discloses “a method for establishing a teleconference via a short message service (SMS) message includes: (a) embedding a teleconference directive in the SMS message by the initiator of the teleconference, and (b) implementing the value-added service based upon the teleconference directive” (*id.* at 2, ¶ 18).

10. Anvekar discloses that a “major benefit of such a system is that a user can coordinate activities such as teleconferencing . . . even when the user is on the move” (*id.* at 1, ¶ 7).

11. In Anvekar’s system, “each participant has a telephone (wireless or wireline) and the person initiating the teleconference has a wireless cellular phone exemplified by phone **1015** capable of sending SMS messages” (*id.* at 5, ¶ 65).

12. Anvekar discloses that, “while a conventional wireline/landline telephone **1055** cannot be used to initiate a teleconference as it does not have SMS sending capability, it can still be included in a teleconference for voice based communication” (*id.*).

13. Anvekar discloses that a “teleconference is initiated and scheduled by a member by sending an SMS message to SMS exchange **1050** giving the necessary details about the teleconference” (*id.* at 6, ¶ 78).

14. Anvekar discloses that “SMS exchange **1050** processes the SMS message and checks . . . whether sufficient resources in the teleconference bridge would be available” (*id.* at 6, ¶ 80).

15. “After ascertaining that the teleconference can be scheduled, the SMS exchange sends a confirmation message to the teleconference initiator” (*id.*).

Principles of Law

“The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.” *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 416 (2007).

“If a person of ordinary skill can implement a predictable variation [of a known work], § 103 likely bars its patentability.” *Id.* at 417.

“[T]he adaptation of an old idea or invention . . . using newer technology that is commonly available and understood in the art” would be obvious to persons of ordinary skill in that art. *Leapfrog Enterprises, Inc. v. Fisher-Price, Inc.*, 485 F.3d 1157, 1162 (Fed. Cir. 2007).

Analysis

Eaton discloses a teleconferencing system that includes a teleconferencing service that establishes a teleconference with a plurality of telephones identified with active participants (FFs 1-3). Eaton’s system also includes a participant list announcement service (“roll call”) that announces a list of the active participants in the teleconference to a requesting participant (FF 2). Anvekar discloses a teleconferencing system that allows a user to schedule a teleconference (FFs 7-9) by sending an SMS message to SMS exchange **1050**, which sends a confirmation message if sufficient resources are available for the desired teleconference (FFs 13-15).

We agree with the Examiner that it would have been obvious to include Anvekar’s SMS-based teleconferencing initiation in Eaton’s teleconferencing system, in order to allow people participating via cellular phone (FF 8) to initiate teleconferences, especially since Anvekar discloses that a major benefit of its system is allowing users to coordinate activities such as teleconferencing even when the user is on the move (FF 10).

Appellants argue that Eaton’s system provides features, including roll call, through the use of DTMF tones (Appeal Br. 9), and that it would not have been obvious to add a messaging service for initiating a teleconference

to Eaton's system because "one would either use the Eaton et al. DTMF based 'audio teleconferencing system which eliminates the need for a human operator to perform teleconferencing tasks and provides advanced teleconferencing features' for conference set up and establishment; or the Anvekar et al. SMS based method" (*id.* at 10).

This argument is not persuasive. Appellants have not provided evidence or sound reasoning to show that a person of ordinary skill in the art would have expected that anything more than routine experimentation would have been required to add Anvekar's SMS-based functionality to Eaton's DTMF-based controls. Thus, Appellants have shown no reasonable basis for concluding that a skilled worker, at the time the invention was made, would have considered it necessary to choose between SMS-based and DTMF-based controls, rather than combining both in a single teleconferencing system.

Appellants also argue that "Anvekar et al. clearly describes a human initiator sending the SMS messages; clearly the combination would frustrate the crux of Eaton et al., i.e., 'an improved audio teleconferencing system which **eliminates the need for a human operator** to perform teleconferencing tasks and provides advanced teleconferencing features'" (*id.* at 11, footnote omitted). Thus, Appellants argue, combining Anvekar's messaging system with Eaton's system "requires changing an Eaton et al. principle of operation, i.e., providing features using SMS messages from an initiator rather than by the Eaton et al. system" (*id.*).

This argument is also unpersuasive. In both Eaton's system and Anvekar's system, a (human) teleconference participant initiates the

teleconference, while the teleconferencing system determines whether the proposed teleconference can be carried out and notifies the initiator (*compare* FFs 4-6 with FFs 13-15). Eaton's system, while not requiring a telephone operator to set up the teleconference, nonetheless requires a human participant to initiate the teleconference (FFs 4, 5).

Appellants also argue that claim 1 requires "providing 'a list of the names of said active teleconference participants in a teleconference to a requesting participant ... [both] through a selected one of said messaging service **and** directly through a respective communications device responsive to a participant request,'" which is not suggested by Eaton or Anvekar (Appeal Br. 11-12, footnote omitted, material in brackets in original).

This argument is unpersuasive. "[D]uring examination proceedings, claims are given their broadest reasonable interpretation consistent with the specification." *In re Hyatt*, 211 F.3d 1367, 1372 (Fed. Cir. 2000). "[C]laims are interpreted with an eye toward giving effect to all terms in the claim." *Bicon, Inc. v. Straumann Co.*, 441 F.3d 945, 950 (Fed. Cir. 2006).

Appellants assert that claim 1 requires providing a list of participants both through a messaging service and through a communications device (telephone). However, claim 1 does not include the word "both." Claim 1 says that a list of participants is provided "through a *selected one* of [a] said messaging service and [b] directly through a respective communications device" (emphasis and bracketed material added).

Appellants' proposed interpretation ignores the claim's recitation of a "selected one" of the specified options, and proposes to introduce a "both" that does not appear in the claim. The Specification makes clear that

providing a list through a messaging service and providing it aurally through the telephone are alternatives. *See, e.g.*, Spec. at 2, ¶ 1008 (“In certain embodiments, the participant list announcement service is configured to announce the names aurally. . . . In some embodiments, the participant list is sent as an Instant message.”); 5-6, ¶ 1026 (“The list may be provided aurally *In other embodiments*, the listing may be provided as audio or text in association with a messaging system.” (Emphasis added).)

Thus, when all of the terms of claim 1 are considered, and the claim language is given its broadest reasonable interpretation, claim 1 requires only that the participant list is provided either through the messaging service or through a communications device, not both as Appellants have argued.

Conclusion of Law

The evidence supports the Examiner’s conclusions (a) that it would have been obvious to add the messaging service disclosed by Anvekar to Eaton’s teleconferencing system, and (b) that doing so would result in an apparatus meeting the limitations of claim 1.

Claim 9 has not been argued separately and therefore falls with claim 1. 37 C.F.R. § 41.37(c)(1)(vii).

Claims 3-8, 10-16, and 18-25 stand rejected under 35 U.S.C. § 103(a) based on Eaton, Anvekar, and one or more other references (Answer 7-24). Appellants have waived their opportunity to present arguments directed to references other than Eaton and Anvekar (*see* Appeal Br. 13). We therefore affirm the rejections based on Eaton, Anvekar, and one or more of Adams, Creamer, Bushmitch, Waites, Salama, Connor, and Benco.

SUMMARY

We affirm all of the rejections on appeal.

TIME PERIOD FOR RESPONSE

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a).

AFFIRMED

cdc